

E-Filed 3/29/10

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION**

VITALY G. MARCHENKO,

Plaintiff,

v.

JOHN MCHUGH, Secretary of the Army,

Defendant.

Case Number C 09-3673 JF (PVT)

ORDER¹ SETTING HEARING ON
ORDER TO SHOW CAUSE WHY
THE ACTION SHOULD NOT BE
DISMISSED WITHOUT PREJUDICE
FOR FAILURE TO PROSECUTE

The Court has been informed that Plaintiff may be deceased. On January 14, 2010, the Court issued an order directing Plaintiff or his heir or successor to inform the Court whether the action would be pursued and to show cause why the action should not be dismissed for failure to prosecute. It is unclear from the record whether that order was served upon Plaintiff, who has proceeding in this action *pro se*. Accordingly, the Clerk of the Court shall serve Plaintiff with

¹ This disposition is not designated for publication in the official reports.

1 the order of January 14 and the instant order. A hearing on the Order to Show Cause is
2 HEREBY SET for April 23, 2010 at 10:30 a.m. If no one appears on behalf of Plaintiff, the
3 action will be dismissed without prejudice for failure to prosecute.

4 IT IS SO ORDERED.

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8 Dated: 3/26/2010

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11 JEREMY FOGEL
12 United States District Judge
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26 Case No. C 09-3673 JF (PVT)
27 ORDER SETTING HEARING ON ORDER TO SHOW CAUSE
28 (JFLC2)

Copies of this order have been served upon the following persons:

Vitaly G Marchenko
9633 Sunland Place
Sunland, CA 91040

Claire T. Cormier claire.cormier@usdoj.gov